

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

VOSK INTERNATIONAL CO.,)	No. 11-1488 RSL
)	
Plaintiff,)	DECLARATION OF MICHAEL ATKINS
)	
vs.)	NOTE ON MOTION CALENDAR:
)	October 11, 2011
ZAO GRUPPA PREDPRIYATIY OST and)	
ZAO OST AQUA,)	
)	
Defendants.)	

Michael G. Atkins deposes and states:

1. I am attorney of record for plaintiff Vosk International Co. I make this declaration based on personal knowledge about which I am competent to testify.

2. Vosk is engaged in the business of marketing, distributing, offering for sale, and selling beverages. Its principal place of business is located in Bellevue, Washington.

3. On information and belief, Defendants Zao Gruppa Predpriyatij Ost and Zao Ost Aqua ("Defendants") also are engaged in the business of marketing, distributing, offering for sale, and selling beverages. On information and belief, their principal place of business is located in Noginsk, Moskovskaya oblast, Russia.

4. In September 2004, Vosk applied to register three trademarks with the U.S. Patent and Trademark Office: KCTPA-CNTP EXTRA-CIDER and Design (Serial No. 78477812) in

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1 International Class 32 in connection with “non-alcoholic beverages, namely sparkling water”;
2 TAPXYH ESTRAGON and Design (Serial No. 78477780) in International Class 32 in
3 connection with “non-alcoholic beverages, namely flavored water”; and DIOWEC DUSHESSE
4 and Design (Serial No. 78485896) in connection with “non-alcoholic beverages, namely flavored
5 sparkling water.”

6 5. In September, October, and November 2005, the PTO approved Vosk’s
7 applications to register its trademarks and published them for opposition.

8 6. In January and February 2006, Defendants opposed Vosk’s applications
9 (Opposition Nos. 91168423, 91169098, and 91169446), alleging prior use of almost identical
10 trademarks. Defendants were represented in the proceeding by a number of U.S.-based lawyers.
11 Maria Eliseeva of the Lexington, Massachusetts, law firm of Houston Eliseeva, LLP, argued the
12 case before the TTAB on Defendants’ behalf. Defendants were also represented at the hearing
13 by Washington, D.C., attorney Carla Calcagno of Calcagno Law PLLC, whose whereabouts are
14 currently unknown to Vosk. A true and correct printout of an excerpt of the U.S. Trademark
15 Trial and Appeal Board’s docket for the consolidated opposition proceedings I obtained from the
16 TTAB on October 6, 2011, is attached hereto as Exhibit A.

17 7. The TTAB consolidated Defendants’ oppositions for trial. On August 9, 2011, it
18 rendered a decision sustaining the oppositions.

19 8. On September 9, 2011, Vosk brought the instant action appealing the TTAB’s
20 decision and seeking additional relief against Defendants pursuant to 15 U.S.C. § 1071(b)(1).

21 9. As Exhibit A indicates, the TTAB docket shows that Ms. Eliseeva and Houston
22 Eliseeva, LLP, remain Defendants’ attorneys of record pending resolution of the instant appeal.

23 10. Though Vosk brings this motion *ex parte*, it notified Defendants – both directly
24 and through their U.S. attorneys – that it filed this motion, as Vosk’s Certificates of Service
25 indicate.
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1 11. A true and correct copy of a page that I obtained from the U.S. State
2 Department's website (http://travel.state.gov/law/judicial/judicial_3831.html) on October 6,
3 2011, is attached hereto as Exhibit B.

4 12. I swear under penalty of perjury under the laws of the State of Washington and
5 the United States that the foregoing is true and correct.

6 DATED this 10th day of October, 2011.

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Michael G. Atkins

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DECLARATION OF MICHAEL ATKINS -- 3

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CERTIFICATE OF SERVICE

I hereby certify that on October 11, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and I hereby certify that I served a true and correct copy of the document as follows:

Zao Ost-Aqua Zao Gruppa Predpriyatij Ost Chernogolovka, ul. Trety proyezd d. 16 Noginsky Rayon Moskovskaya obl., 142 432 Russia Defendants	<input checked="" type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Express Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email <input type="checkbox"/> ECF
Maria Eliseeva Houston Eliseeva, LLP 420 Bedford St., Suite 155 Lexington, MA 02420 Attorneys for Defendants in TTAB Proceeding	<input checked="" type="checkbox"/> U.S. Mail, Postage Prepaid <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Express Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> Email <input type="checkbox"/> ECF

Dated: October 11, 2011

s/Michael G. Atkins

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